

ARKANSAS SUPREME COURT

No. 06-532

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered June 22, 2006

JOHN RAGSDALE
Petitioner

PRO SE MOTION FOR RULE ON
CLERK TO FILE CIVIL PROCEDURE
RULE 60 PETITION [ORIGINAL
ACTION]

v.

STATE OF ARKANSAS
Respondent

MOTION DENIED

PER CURIAM

Petitioner John Ragsdale is an inmate who is incarcerated in the Arkansas Department of Correction. Petitioner tendered to this court's clerk an original action pursuant to Ark. R. Civ. P. 60, and our clerk correctly refused to file the pleading because there is no provision for filing the action in this court under the current rules of civil procedure. A complaint alleging a basis of action under Rule 60 is filed in circuit court. Petitioner has now filed this *pro se* motion requesting us to instruct our clerk to accept the pleading and that we consider the filing as an original action in this court. We decline to do so.

Certainly, this court is not the proper forum for the type of evidentiary hearing that would be necessary for any proceeding under Rule 60. Petitioner seeks to challenge his conviction for possession of methamphetamine with intent to deliver, and his appeal and postconviction

proceedings relating to that conviction¹, raising issues of prosecutorial and judicial misconduct. He argues that we should assume jurisdiction because he raises these claims concerning multiple courts and proceedings, including those related to his federal *habeas corpus* petition, in addition to his trial, appeal and petition under Ark. R. Crim. P. 37.1. Regardless of whether petitioner's claims span a number of diverse proceedings, or whether petitioner filed in the proper court, he has no cause of action under Rule 60.

We do not apply Rule 60 in criminal cases. *McArty v. State*, ___ Ark. ___, ___ S.W.3d ___ (January 5, 2006) (*per curiam*). This court has recognized that postconviction relief proceedings are civil in nature and applied the Rules of Appellate Procedure—Civil when necessary. *Sanders v. State*, 352 Ark. 16, 98 S.W.3d 35 (2003). We have never applied the rules of civil procedure to postconviction relief proceedings. *Id.* Furthermore, we have specifically declined to apply Ark. R. Civ. P. 60 in criminal cases. *McArty, supra*; *Ibsen v. Plegge*, 341 Ark. 225, 15 S.W.3d 686 (2000)(citing *McCuen v. State*, 338 Ark. 631, 999 S.W.2d 682 (1999)). As we are not presented with any valid reason to reconsider our previous holdings on the issue, we will, accordingly, decline petitioner's request that we create a new, original remedy in this court for postconviction relief.

Motion denied.

¹ Petitioner appealed his conviction to the Arkansas Court of Appeals, and the judgment was affirmed. *Ragsdale v. State*, CACR 01-106 (Ark. App. September 5, 2001). Petitioner filed a petition for postconviction relief under Ark. R. Crim. P. 37.1 in the trial court. That petition was denied and this court affirmed. *Ragsdale v. State*, CR 01-1399 (Ark. May 23, 2002) (*per curiam*).